

California Regional Water Quality Control Board
Santa Ana Region

UPDATE TO THE

November 5, 2004

AGENDA

The following items have been excluded from the agenda for the reasons indicated below:

Item No:

- 11 **Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement.** This item has been removed from the Agenda.
- 14 **Mandatory Penalties Complaint, Atlantic Richfield Company, Service Station at 5981 Warner Avenue, City of Huntington Beach.** The liability was paid and the discharger waived their right to a hearing. No Board action required.
- 15 **Mandatory Penalties Complaint, Hamid Farsai, Huntington Beach ARCO, 6002 Bolsa Avenue, Huntington Beach.** This item has been postponed until the December 17, 2004 Board Meeting.
- 16 **Mandatory Penalties Complaint, Bell Industries, 1831 Ritchey Street, Santa Ana.** This item has been postponed until the December 17, 2004 Board Meeting.
- 17 **Mandatory Penalties Complaint, Straub Distributing Company, Ltd., 11552 Monarch Street, Garden Grove.** The liability was paid and the discharger waived their right to a hearing. No Board action required.
- 18 **Mandatory Penalties Complaint, Conexant, 4311 Jamboree Boulevard, Newport Beach.** The liability was paid and the discharger waived their right to a hearing. No Board action required.
- 19 **Mandatory Penalties Complaint, Venus Laboratories, Inc., 12601 Monarch Street, Garden Grove.** This item has been postponed until the December 17, 2004 Board Meeting.
- 21 **Administrative Civil Liability Complaint, Raytheon Systems Company, Former Hughes Site at 651 Gilbert Street, Fullerton.** This item has been postponed until the December 17, 2004 Board Meeting.
- 23 **Petition by the West Valley Water District and the Fontana Water Company for Issuance of a Water Replacement Order to the County of San Bernardino.** This item has been postponed.

California Regional Water Quality Control Board
Santa Ana Region
Staff Report
November 5, 2004

ITEM: 17

SUBJECT: Mandatory Penalties Complaint No. R8-2004-0086 for Straub Distributing Company, Ltd., Garden Grove- Order No. R8-2004-0094

BACKGROUND

On October 6, 2004, the Executive Officer issued Mandatory Penalties Complaint (MPC) No. R8-2004-0086 to Straub Distributing Company, Ltd (Straub) for alleged violations of the General Groundwater Cleanup Permit, Order No. R8-2002-0007, NPDES No. CAG 918001, (General Permit). In the MPC (attached), the Executive Officer proposed an assessment of \$18,000 for the alleged violations. Based on new information provided by The Reynolds Group, consultant to Straub, this complaint was amended on October 21, 2004, and the assessment was changed to \$15,000.

INTRODUCTION

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is to consider adoption of Order No. R8-2004-0094, which affirms MPC No. R8-2004-0086. MPC No. R8-2004-0086 was issued by the Executive Officer to Straub for violations of the General Permit for which the Board must impose mandatory penalties pursuant to California Water Code (Water Code) Section 13385(h).

DISCUSSION

Straub currently owns and operates a beer sales and distribution facility located at 11552 Monarch Street in the City of Garden Grove. Groundwater beneath the site is contaminated from underground storage tank related leaks and a groundwater treatment system treats and discharges groundwater from the site.

On January 23, 2002, the Board adopted the General Permit, which regulates discharges of extracted and treated groundwater resulting from the cleanup of petroleum hydrocarbons and/or solvents within the Santa Ana Region by establishing effluent limits for a number of constituents.

On May 2, 2002, Straub was authorized to discharge treated groundwater under Order R8-2002-0007 and was required to monitor the discharge in accordance with Monitoring and Reporting Program No. 2002-0007-072. The groundwater treatment system began operating in October 2002.

Monitoring and Reporting Program No. 2002-0007-072 requires that monitoring reports be submitted monthly. The monitoring reports are to be submitted by the 30th day of each month following the monthly monitoring period. On May 14, 2004, Board staff received the monthly monitoring reports for the monitoring periods of June 2003 through April 2004.

Water Code Section 13385.1(a)(1) defines a serious violation to include a failure to submit a discharge monitoring report for each complete period of 30 days following the deadline for submitting the report. This applies to violations that occur on or after January 1, 2004. Water Code Section 13385(h) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation.

Straub Distributing Company has failed to submit self-monitoring reports in a timely manner, which resulted in violations of Monitoring and Reporting Program R8-2002-0007-072. These violations are summarized on Attachment "A", enclosed with this report.

As shown in Attachment "A", Straub had a total of 5 violations that occurred after January 1, 2004 and are considered serious violations that are subject to mandatory minimum penalties. In accordance with Water Code Section 13385(h), the mandatory minimum penalties for the six reporting violations cited above, are \$15,000.

STATEWIDE ENFORCEMENT POLICY

On February 19, 2002, the State Water Resources Control Board adopted a Revised Water Quality Enforcement Policy to ensure that enforcement actions throughout the State are fair, firm and consistent. The above-described mandatory penalties complaint is in accordance with the State Enforcement Policy.

RECOMMENDATION

Board staff recommends that the Board affirm MPC No. R8-2004-0086 by adopting Order No. R8-2004-0094.

ATTACHMENT "A"
MPC R8-2004-0086**TABLE 1A.**
MONTHLY REPORTING VIOLATIONS IN 2004

MONITORING PERIOD	REPORT DUE DATE	REPORT RECEIVED DATE	NUMBER OF MONTHS LATE	NUMBER OF SERIOUS REPORTING VIOLATIONS*
December 2003	January 30, 2004	May 14, 2004	3 mo., 14 days	3
January 2004	March 1, 2004	May 14, 2004	2 mo., 14 days	2
February 2004	March 30 2004	May 14, 2004	1 mo., 14 days	0 (no discharge)
March 2004	April 30, 2004	May 14, 2004	14 days	0
Total Number of Violations				5

*Violations Subject to mandatory minimum penalty.

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

IN THE MATTER OF:)	Order No. R8-2004-0094
)	for
Straub Distributing Company, Ltd.)	Mandatory Penalties
11552 Monarch St., Garden Grove)	
Attention: Ralph Chandos)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on November 5, 2004 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2004-0086, dated October 6, 2004 (as amended on October 21, 2004), and on the imposition of mandatory penalties pursuant to Water Code Section 13385. The Board finds as follows:

1. On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. 2002-0007 (NPDES No. CAG918001), General Groundwater Cleanup Permit, which regulates discharges of extracted and treated groundwater resulting from the cleanup of petroleum hydrocarbons and/or solvents within the Santa Ana Region by establishing effluent limits for a number of constituents. On May 2, 2002, Straub Distributing Company, Ltd. (Straub) was authorized to discharge treated groundwater under Order R8-2002-0007 and was required to monitor the discharge in accordance with Monitoring and Reporting Program No. 2002-0007-072. Monitoring and Reporting Program No. 2002-0007-072 requires that monitoring reports be submitted monthly. The monitoring reports are to be submitted by the 30th day of each month following the monthly monitoring period.
2. On May 14, 2004, Board staff received the monthly monitoring reports for the monitoring periods of June 2003 through April 2004. Straub failed to submit self-monitoring reports in a timely manner, which is a violation of Monitoring and Reporting Program R8-2002-0007-072.
3. Water Code Section 13385(h) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Water Code Section 13385.1(a)(1) defines a serious violation to include a failure to submit a discharge monitoring report for each complete period of 30 days following the deadline for submitting the report. This applies to violations that occur on or after January 1, 2004.
4. As shown in Attachment "A", Straub had a total of 5 violations that occurred after January 1, 2004 and are considered serious violations that are subject to mandatory minimum penalties.
5. In accordance with Water Code Section 13385(h), the mandatory minimum penalties for the six reporting violations cited in Paragraph 4, are \$15,000.

November 5, 2004

6. On October 6, 2004, the Executive Officer issued Complaint No. R8-2004-0086 to Straub proposing that the Board impose mandatory minimum penalties of \$18,000 on Straub for the violations cited above. Based on new information, this Complaint was amended on October 21, 2004 to change the assessment to \$15,000.
7. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385, mandatory penalties be imposed on Straub Distributing Company, Ltd. in the amount of \$15,000, as proposed in Complaint No. R8-2004-0086 for the violations cited above, payable as set forth below.

1. Straub shall pay the entire \$15,000 to the State Water Resources Control Board.
2. The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on November 5, 2004.

Gerard J. Thibeault
Executive Officer